

**LAW OFFICES OF MARK R. SMITH, P.C.**

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**ALLEN LEGAL SERVICES, PLLC**

Eric S. Allen  
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*Attorneys for Defendant All American Auto Protection, Inc.*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

\*\*\*\*\*

CHARLES A. JONES, on behalf of himself and all)  
similarly situated persons,

Plaintiff(s),

vs.

ALL AMERICAN AUTO PROTECTION, INC.,

Defendants.

) **CASE NO.:** 3:14-CV-00199-LRH-WGC

) **MOTION TO WITHDRAW AS  
COUNSEL FOR DEFENDANT**

) Judge: Larry R. Hicks

) Magistrate Judge: William G. Cobb

COMES NOW, Defendant ALL AMERICAN AUTO PROTECTION, INC.; ERIC S.  
ALLEN, ESQ. and SCOTT S. ALLEN, ESQ., of ALLEN LEGAL SERVICES, PLLC and MARK  
R. SMITH, ESQ., of the LAW OFFICES OF MARK R. SMITH, P.C., and hereby move this Court

1 for an order allowing withdrawal of the above-named counsel as the counsel of record for  
 2 Defendant ALL AMERICAN AUTO PROTECTION, INC. in this matter.

3 This Motion is made and based upon and supported by the following Memorandum of  
 4 Points and Authorities, the pleadings and papers on file, the Declarations attached hereto, and any  
 5 argument that the Court may allow at the time of the hearing.

6 DATED this 20<sup>th</sup> day of October, 2014.

7 **LAW OFFICES OF MARK R. SMITH, P.C.**

8 By: /s/ Mark R. Smith, Esq.  
 9 Mark R. Smith, Esq.  
 Nevada Bar No. 11872  
 10 6166 S. Sandhill Road, Suite 140  
 Las Vegas, Nevada 89120  
 11 Telephone: (702) 518-7625  
 12 Facsimile: (702) 475-6453  
 Email: mark@marksmithlaw.com  
 13 *Attorneys for Defendant*

14 **MEMORANDUM OF POINTS AND AUTHORITIES**

15 **I. STATEMENT OF FACTS**

16 In or around June, 2014, Eric S. Allen, Esq., and Scott S. Allen, Esq., of Allen Legal  
 17 Services and Mark R. Smith, Esq., were retained by Defendant All American Auto Protection,  
 18 Inc., to represent it in this action. Messrs. Allen were permitted to serve as *pro hac vice* counsel  
 19 and Mr. Smith has served as local counsel. In recent days, Defendant All American Auto  
 20 Protection, Inc., has advised counsel that it desires to terminate all counsels' representation in this  
 21 matter. Accordingly, Allen Legal Services and the Law Offices of Mark R. Smith, P.C. can no  
 22 longer effectively represent the defendant in this action and now hereby move this Court for leave  
 23 to withdraw as counsel of record for Defendant All American Auto Protection, Inc. in this  
 24 litigation.

25 **II. ARGUMENT**

26 Local Rule IA 10-6 allows a Court to consider withdrawal of an attorney with leave  
 27 of Court after notice to the client and opposing counsel. As declared above, this request is  
 28

1 jointly made at the request of the Defendant All American Auto Protection, Inc. and its counsel  
2 of record, Eric S. Allen, Esq. and Scott S. Allen, Esq., of Allen Legal Services, PLLC and Mark  
3 R. Smith, Esq., of the Law Offices of Mark R. Smith, P.C. This request further complies with  
4 Nevada Rule of Professional Conduct 1.16 because "[w]ithdrawal can be accomplished without  
5 material adverse effect on the interests of the client".

6 Certain irreconcilable differences regarding the scope and retention of counsel's legal  
7 services have arisen between Defendant and its counsel and Defendant now desires to terminate its  
8 relationship with the above-named counsel with respect to legal representation in this matter.  
9 Accordingly, Defendant ALL AMERICAN AUTO PROTECTION, INC. and its counsel  
10 respectfully request leave for counsel to withdraw from this action. Defendant ALL AMERICAN  
11 AUTO PROTECTION, INC. has been advised by counsel, and so understands, that it will be  
12 required to retain new counsel in order to proceed in its defense of Plaintiff's Complaint.

### 13 **III. CONCLUSION**

14 Based on the foregoing, and more particularly because Defendant All American Auto  
15 Protection, Inc. no longer desires to be represented by its current counsel, Defendant All American  
16 Auto Protection, Inc.; Eric S. Allen, Esq. and Scott S. Allen, Esq., of Allen Legal Services, PLLC;  
17 and Mark R. Smith, Esq., of the Law Offices of Mark R. Smith, P.C, request that leave of this  
18 Court be granted for counsel to withdraw as Defendant's counsel of record.

19 DATED this 20<sup>th</sup> day of October, 2014.

20 **LAW OFFICES OF MARK R. SMITH, P.C.**

21 By: /s/ Mark R. Smith, Esq.  
22 Mark R. Smith, Esq.  
23 Nevada Bar No. 11872  
24 6166 S. Sandhill Road, Suite 140  
25 Las Vegas, Nevada 89120  
26 Telephone: (702) 518-7625  
27 Facsimile: (702) 475-6453  
28 Email: mark@marksmithlaw.com  
*Attorneys for Defendant*

**DECLARATION OF MARK R. SMITH, ESQ.**

MARK R. SMITH, ESQ., being first duly sworn under the penalties of perjury makes the following Declaration and deposes and says:

1. That I am a duly licensed and practicing attorney in good standing in the State of Nevada since 2010; and that I am a principal of the Law Offices of Mark R. Smith, P.C., located at 6166 S. Sandhill Road, Suite 140, Las Vegas, NV 89120.

2. That in or around June 2014, I was asked by Allen Legal Services, PLLC to associate into this case as co-counsel and local counsel for Defendant All American Auto Protection, Inc.

3. That I have been informed and believe that Defendant All American Auto Protection, Inc. no longer desires to have me or the Law Offices off Mark R. Smith, P.C. continue to represent it in this matter.

4. That I have been informed and believe that Defendant All American Auto Protection, Inc. no longer desires to Eric S. Allen, Esq., Scott S. Allen, Esq., or Allen Legal Services, PLLC continue to represent it in this matter.

5. That I am further informed and believe that Defendant All American Auto Protection, Inc. has been advised and understands that it is required to retain new counsel to continue in its defense against Plaintiff's Complaint.

6. That based upon the foregoing, I request leave to withdraw as counsel of record for Defendant All American Auto Protection, Inc.

7. That to the best of this counsel's knowledge the address at which Defendant may be served with notice of further proceedings is as follows:

ALL AMERICAN AUTO PROTECTION, INC.  
1785 E. Sahara Ave., Suite 490  
Las Vegas, NV 89104

**I declare under penalty of perjury under the laws of the State of Nevada (NRS53.045 and 28 U.S.C. §1746), that the foregoing is true and correct.**

/s/ Mark R. Smith, Esq.  
Mark R. Smith, Esq.

**DECLARATION OF ERIC S. ALLEN, ESQ.**

ERIC S. ALLEN, ESQ., being first duly sworn under the penalties of perjury makes the following Declaration and deposes and says:

1. That I am a duly licensed and practicing attorney in good standing in the State of Utah admitted *pro hac vice* to practice in this matter before the Court; and that I am an attorney of Allen Legal Services, PLLC, located at 2091 Murray Holladay Road, Suite 21, Salt Lake City, UT, 84117.

2. That in or around June 2014, Allen Legal Services was retained as counsel for Defendant All American Auto Protection, Inc.

3. That I have been informed by Defendant All American Auto Protection, Inc. that it no longer desires to have Allen Legal Services or the Law Offices of Mark R. Smith, P.C. continue to represent it in this matter.

4. That I have informed Defendant All American Auto Protection, that it is required to retain new counsel to continue in its defense against Plaintiff's Complaint.

5. That based upon the foregoing, I request leave to withdraw as counsel of record for Defendant All American Auto Protection, Inc.

6. That to the best of this counsel's knowledge the address at which Defendant may be served with notice of further proceedings is as follows:

ALL AMERICAN AUTO PROTECTION, INC.  
1785 E. Sahara Ave., Suite 490  
Las Vegas, NV 89104

**I declare under penalty of perjury under the laws of the State of Nevada (NRS53.045 and 28 U.S.C. §1746), that the foregoing is true and correct.**

/s/ Eric S. Allen, Esq.  
Eric S. Allen, Esq.

**DECLARATION OF SCOTT S. ALLEN, ESQ.**

SCOTT S. ALLEN, ESQ., being first duly sworn under the penalties of perjury makes the following Declaration and deposes and says:

1. That I am a duly licensed and practicing attorney in good standing in the State of Utah admitted *pro hac vice* to practice in this matter before the Court; and that I am an attorney of Allen Legal Services, PLLC, located at 2091 Murray Holladay Road, Suite 21, Salt Lake City, UT, 84117.

2. That in or around June 2014, Allen Legal Services was retained as counsel for Defendant All American Auto Protection, Inc.

3. That I have been informed by Defendant All American Auto Protection, Inc. that it no longer desires to have Allen Legal Services or the Law Offices of Mark R. Smith, P.C. continue to represent it in this matter.

4. That I have informed Defendant All American Auto Protection, that it is required to retain new counsel to continue in its defense against Plaintiff's Complaint.

5. That based upon the foregoing, I request leave to withdraw as counsel of record for Defendant All American Auto Protection, Inc.

6. That to the best of this counsel's knowledge the address at which Defendant may be served with notice of further proceedings is as follows:

ALL AMERICAN AUTO PROTECTION, INC.  
1785 E. Sahara Ave., Suite 490  
Las Vegas, NV 89104

**I declare under penalty of perjury under the laws of the State of Nevada (NRS53.045 and 28 U.S.C. §1746), that the foregoing is true and correct.**

/s/ Scott S. Allen, Esq.  
Scott S. Allen, Esq.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 21<sup>st</sup> day of October, 2014, I caused a true and correct copy of the foregoing **MOTION TO WITHDRAW AS COUNSEL FOR DEFENDANT**

to be electronically served upon and/or mailed to the following:

ALL AMERICAN AUTO PROTECTION, INC.  
1785 E. Sahara Ave., Suite 490  
Las Vegas, NV 89104

Peter D Durney  
DURNEY & BRENNAN, LTD.  
6900 S McCarran Blvd., Ste. 2060  
Reno, NV 89509

Matthew Righetti  
Michael C Righetti  
RIGHETTI GLUGOSKI, P.C.  
456 Montgomery Street, Suite 1400  
San Francisco, CA 94104  
*Attorneys for Plaintiff*

/s/ Mark R. Smith, Esq.  
On behalf of: Law Offices of Mark R. Smith, Esq.